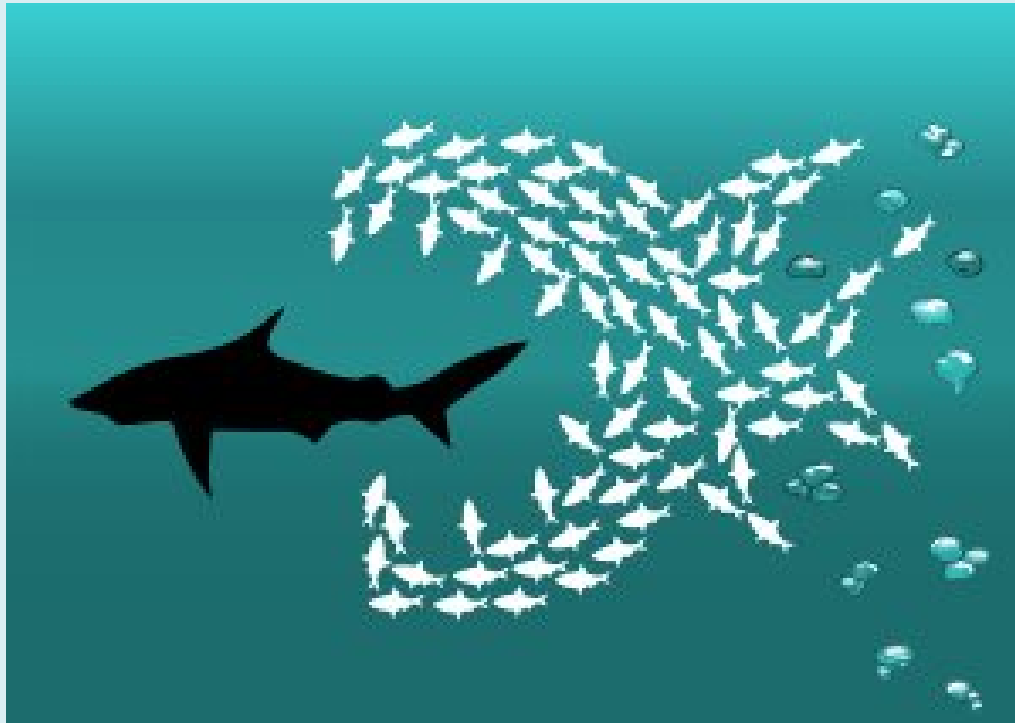




FCTC Article 5.3 Guidelines Best Practice: Philippines



Translating FCTC Article 5.3 into Reality

FCTC Article 5.3 Guidelines

The Guiding Principles of the WHO Framework Convention on Tobacco Control (FCTC) Article 5.3 Guidelines provide eight (8) specific recommendations to assist countries to implement the Guidelines. Governments that follow these recommendations are more likely to be successful in warding off tobacco industry (TI) interference:

1. Raise awareness on the harm of tobacco and the industry's interference in policies;
2. Limit interaction with the tobacco industry;
3. Reject partnership and agreements with the tobacco industry;
4. Avoid conflict of interest for government officials and employees;
5. Collect information from the tobacco industry;
6. Require accuracy and transparency;
7. Denormalize and regulate so-called “socially responsible” tobacco industry activities; and,
8. Do not give preferential treatment to the tobacco industry.

Case Study

The following case study shows in detail how one Southeast Asian government's application of such recommendations has led to best practices in Article 5.3 implementation despite the challenges faced.

Philippines: Civil Service Commissionⁱ

After representatives from the Department of Health (DOH), Civil Service Commission (CSC)¹, and the civil society members learned about Article 5.3 and its Guidelines from a SEATCA meeting in 2009, they continued to meet regularly to monitor tobacco industry interference and decide on policy reforms that could prevent such interference. After months of collective deliberation and several consultations with other government agencies, DOH and CSC jointly issued the **Joint Memorandum Circular No. 1 of 2010 (JMC)**. This policy provides a code of conduct for all government officials in relation to the tobacco industry, which, consistent with Art. 5.3 Guidelines, is broadly defined in the policy to include all those that represent the tobacco industry. Civil Service Commission has jurisdiction to hear complaints relating to the violation of the JMC.

JMC in a Nutshell

Consistent with the Anti-Graft and Corrupt Practices Act and the FCTC:

1. All public officials shall:
 - Not interact with the tobacco industry (TI) unless strictly necessary for its regulation;
 - Make all “necessary” interactions public and transparent;
 - Not receive any form of direct or indirect contribution from TI; and,
 - Disclose interests in the TI.
2. Violations of JMC are subject of administrative proceedings.
3. Head of agencies must include implementation of the JMC in its annual report.

¹ Equivalent of Public Service Commission in other countries, the Philippine Civil Service Commission is an independent Constitutional body in charge of the working conditions and wellbeing of all public servants in the country.

Success Stories

The CSC's efforts to implement the JMC have resulted in interventions that have been significant in ensuring the protection of tobacco control measures. For instance, in local government unit called Albay, tobacco control advocates, with the assistance of a CSC lawyer, warned against potential violation of the JMC to prevent the tobacco industry from interfering during a hearing on smoke-free legislation. The tobacco companies were asked to submit any positions in advance and in writing to ensure transparency and to avoid unnecessary interactions with local government officials. This effectively reduced the challenges the advocates faced in getting a 100% Smoke-Free Ordinance adopted.

JMC in Action

- a. Department of Education adopted a policy to prohibit TI contributions (so called CSR of TI) in public schools and warned those reported to have received TI CSR indirectly.
- b. Department of Health introduced a more stringent version of the JMC that applies to all agencies and personnel in the agency.
- c. When a multinational tobacco company approached the Commission on Customs to be a "partner" in curbing illicit trade, the government agency sought advice from the CSC and was informed that it would violate the JMC if it pursues this partnership.
- d. Department of Labor, Department of Science and Technology, Department of Foreign Affairs, Bureau of Internal Revenue, and Metro Manila Development Authority have issued their respective regulations compliant with the JMC.

Raising Awareness

Consultations with government agencies regarding Article 5.3 have encouraged some agencies to initiate their own Art 5.3-compliant policy. For instance, in January 2010, the Land Transportation and Franchising Regulatory Board (LTFRB) has required all PUVs and land transportation terminals to be 100% smoke-free. PUVs drivers and operators are responsible for posting "No Smoking" signs in their vehicles and drivers are responsible for warning their passengers and co-workers against smoking inside PUVs.

In accordance with WHO Article 5.3, the LTFRB "shall endeavor to partner with government agencies, civil society organizations, and private sector, except, those representing tobacco interests."



Winds of Change

Countering Tobacco Industry Interference

Below are some of the tobacco industry's common tactics, which the Philippines managed to address with the help of the JMC, a policy that adopts Art 5.3 recommendations.



NOW: In 2012, the Bureau of Customs rejected the renewal of partnership with Philip Morris, citing that Article 5.3 and the JMC prohibit the agency from doing so.



THEN: In 2009, the Philippines' Bureau of Internal Revenue (BIR) awarded a Billionaire's Club Award to Philip Morris for being one of the highest taxpayers. While other businesses have received the award, Philip Morris' award was widely publicized. This created a perception of endorsement from the government.

NOW: Based on the JMC, the BIR adopted Revenue Regulation (RR) 28-2014, which reiterates and spelled out the rules in the JMC, and added that any violation of the RR shall be deemed conduct prejudicial to the best interest of the service and shall constitute a grave offense.

The tobacco industry does not rest, neither should we.

Implementation of the JMC is not without challenges. In May 2012, the Philippines Department of Labor and Employment (DOLE) also issued a memorandum to implement CSC-DOH Joint Memorandum Circular 2010-01. However, 4 months later, Philip Morris (PMFTC) undermined the policy by meeting with DOLE officials in a tobacco-producing region and organizing an industry-led tripartite committee to deal with child labor in tobacco. The Committee includes PMFTC, farmer representatives, and the government. The authorities are currently looking into this matter in line with the JMC.

Best Practices Checklist



ESTABLISH A FORUM

In early 2009, the Philippines set up a multi-sectoral 5.3 committee that includes the Department of Health, Civil Service Commission, other government agencies, and NGOs.



ADOPT A CODE OF CONDUCT

In 2010, the Philippines adopted a policy to "Protect the Bureaucracy from Tobacco Industry Interference" which includes revisions to the Code of Conduct, a monitoring / reporting process, and administrative sanctions.



EXCLUDE TOBACCO INDUSTRY IN MEETINGS

In international examples, the Indian government severed ties with a tobacco conference that included tobacco industry representatives.

At the International Negotiating Body sessions for the Illicit Trade Protocol, representatives of over a hundred governments agreed to eject the tobacco industry from the public gallery.

*For more details on this checklist and other tools to encourage government agencies to adopt policies to protect against tobacco industry interference, please check out **SEATCA's Toolkit for Policy Makers and Advocates: Preventing Tobacco Industry Interference** available at www.industryinterference.seatca.org*



First Step

Establish a core group and develop a plan.

In the Philippines, members of the Core Group on Article 5.3 include high-level officials in the Department of Health, Civil Service Commission, and several NGOs. Other potential partners include the Ombudsman and anti-corruption agencies.

In July 2009, an Article 5.3 Committee was formally set up under the Department of Health to develop implementation strategies to fulfill the obligations under Article 5.3 as elaborated by the Guidelines.

The Committee is composed of DOH directors and high-level policymakers, high-level representatives from the Civil Service Commission, Office of the President, as well as civil society and NGO representatives. The body meets regularly and has created a working group for Inter-agency Linkages, Policy Development, and Communications.

The Inter-agency Linkages working group coordinates the meetings with key government agencies to ensure that Article 5.3 is implemented in these agencies. The Policy Development working group focuses on developing strategies and policies required to promote a tobacco industry-resistant culture. The Communications group develops tools, response mechanisms, and IEC materials to raise awareness about tobacco industry interference. It has produced fact sheets, posters, and videos relating to Article 5.3. It also developed letter templates and press materials.

In June 2010, the DOH and CSC issued Joint Memorandum Circular 2010-01, prohibiting government workers from interacting with any tobacco corporation or company, except "when strictly necessary for the latter's effective regulation, supervision, or control."

Government Agencies Targeted by the Tobacco Industry

Global studies show a pattern on the type of government bodies that the tobacco industry "targets" or partners with because of their existing or potential role in tobacco control measures:

- Ministries or Departments of
 - Agriculture
 - Culture
 - Customs
 - Education
 - Environment
 - Finance
 - Social Welfare
 - Tobacco (Board)
- Congress or National Assemblies
- Local government units (LGUs)
- Semi-government agencies or commissions

The Next Step

CHALLENGES FACED	RECOMMENDATIONS UNDER THE ARTICLE 5.3 GUIDELINES TO ADDRESS THE CHALLENGES	POLICIES/ PROGRAMS THAT MUST BE DEVELOPED OR ADOPTED	IMMEDIATE ACTION
Lack of understanding of the past and present interference by the tobacco industry, including industry strategies and tactics	Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies	Programs and surveillance systems to raise awareness about tobacco industry interference, and identification of tobacco industry players	Awareness-raising activities, including media advocacy
The tobacco industry interacts freely with the government	Avoid interactions unless strictly necessary	Code of Conduct and similar personnel policies, corresponding State policies	Direct action utilizing existing laws governing public officials
The tobacco industry partners with and provides policy drafts to government	Do not partner with or adopt policy drafts from the tobacco industry	Same as above	Same as above
The tobacco industry creates conflicts of interest for government officials	Do not accept contributions, gifts or invitations from the tobacco industry	Same as above	Same as above
The tobacco industry is not transparent	Require the tobacco industry to be transparent and accountable	Laws or rules regulating the tobacco industry (on transparency, information, privileges, and investment)	Direct action based on existing laws regulating the tobacco industry; awareness-raising activities, including media exposure
The tobacco industry does so-called CSR activities to divert attention from harmful effects of tobacco	Denormalize so-called CSR activities of the tobacco industry	Policies/programs for surveillance and enforcement of tobacco advertising and sponsorship bans	Ban TI-CSR activities; awareness-raising campaigns, including media exposure
The government gives exemptions or benefits to the tobacco industry	Do not give privileges or benefits to the tobacco industry	Laws prohibiting (or removing) benefits to the tobacco industry	Review of government policy, laws, and contracts providing such benefits
Existence of state monopolies	Treat state monopolies the same way	Additional provision in the above-cited policies to ensure that such policies apply equally to state monopolies	Encourage government to withdraw its investment in the tobacco business

The Final Step

Continue to overcome challenges.

Adopting policies and programs is a good start but the real challenge is in implementing and sustaining these initiatives.

Build capacity.

In 2010, the DOH provided initial support for CSC to conduct trainings among CSC officers to implement the JMC. The CSC continues to conduct trainings and aims to incorporate JMC implementation in existing programs and constantly develops tools. The legal department of the CSC significantly contributes to the technical aspects of the training. Professionals in civil society



Build alliances.

The CSC continues to reach out to partners by conducting interagency 5.3 meetings on a quarterly basis. CSC personnel and lawyers also serve as resource persons in capacity-building activities of LGUs, government agencies, and other entities interested in implementing the JMC.



Take immediate action.

In August 2014, an online news agency reported that the NTA was liable for unnecessary interaction with Mighty Corp., a local tobacco company. The National Tobacco Administrator (NTA) Edgardo Zaragoza posed together with a tobacco company's president in a synchronized tree-planting activity. The tobacco company website reports: "NTA lauds Mighty Corp. on its contribution in the tobacco industry."

In response to this news item, the CSC wrote a letter to the NTA warning it that any activities undertaken jointly with Mighty Corporation is a form of unnecessary interaction and violates the JMC.

As a response to publicly available reports that imply a possible violation of the JMC, the CSC had sent similar reminder/warning letters to a few local government units and government offices, such as the Department of Trade and Industry.



Prepare to overcome challenges.

The JMC has not eliminated TI interference but has been an effective tool to manage it. A law passed in 2003 created a mechanism for the tobacco industry to interfere. An association of tobacco companies, the Philippine Tobacco Institute (PTI), sit as members of the Interagency Committee that is tasked to implement the Tobacco Regulation Act. While legislative bodies are working to change this law, the JMC serves as the tobacco control advocates' strongest weapon to counter tobacco industry's interference in this committee.

The tobacco industry including those protecting its interests, continues to undermine the JMC at every opportunity and seeks to have the Article 5.3-based policy revoked. The CSC continues to stand firm in order to uphold its mandate to promote integrity in public service.

How the Philippines is implementing Article 5.3

RECOMMENDATION 1

Raise awareness about the harmful nature of tobacco products and about tobacco industry interference in tobacco control policies.

In 2010, the DOH issued DOH Memo 26 where the DOH is required to state the following in all its correspondence, contracts, and issuances: “The Department of Health does not deal with the tobacco industry or those representing its interests.” In addition, all DOH personnel are required to publicly denounce any tobacco industry donation or perception of partnership.

Under this policy, the Department of Health is also required to keep a public record of persons and entities identified as part of the tobacco industry.

The DOH, CSC, and NGOs have conducted workshops all over the country to raise awareness about Article 5.3, tobacco industry interference, and the JMC. The CSC has also developed monitoring and reporting procedures to ensure that the policy is effectively implemented.

RECOMMENDATIONS 2 TO 4

Establish measures to limit interaction.

Reject partnerships and agreements.

Avoid conflicts of interest for government officials and employees.

In 2010, the DOH and the CSC issued Joint Memorandum Circular 2010-01 to protect the bureaucracy from tobacco industry interference. (See full version in Annex and summary on page 11)

Many other government agencies and local governments adopted a complementary policy to support and ensure JMC implementation.

RECOMMENDATION 5

Denormalize and regulate tobacco industry activities defined as “socially acceptable”.

In 2010, the Health Secretary disseminated warning letters to the recipients of tobacco company donations, highlighting possible violation of advertising laws and the obligation to protect public health from the vested interests of the tobacco industry.

In 2013, the Department of Education investigated a report that a public school received funding for an education program through an NGO that received tobacco industry funds; the official involved was given due warning.

In 2014, the CSC wrote a letter to the NTA warning that its activities with Mighty Corporation is a form of unnecessary interaction and violates the JMC.



Republic of the Philippines
Department of Education



JAN 18 2012

DepEd ORDER
No. 6, s. 2012

**GUIDELINES ON THE ADOPTION AND IMPLEMENTATION OF PUBLIC HEALTH
POLICIES ON TOBACCO CONTROL AND PROTECTION AGAINST TOBACCO
INDUSTRY INTERFERENCE**

To: Undersecretaries
Assistant Secretaries
Bureau Directors
Directors of Services, Centers and Heads of Units
Regional Directors
Schools Division/City Superintendents
Heads, Public and Private Elementary and Secondary Schools
All Others Concerned

1. The Department of Education (DepEd) has issued the enclosed **Guidelines on the Adoption and Implementation of the Public Health Policies on Tobacco Control and on Protection Against Tobacco Industry Interference** in compliance with the following:

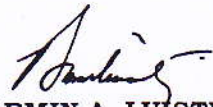
- 1.a. Republic Act (RA) No. 9211 known as *Tobacco Regulation Act of 2003*;
- 1.b. Joint Memorandum Circular 2010-01 issued by the Civil Service Commission (CSC) and the Department of Health (DOH) entitled "*Protection of the Bureaucracy Against Tobacco Industry Interference*"; and
- 1.c. Guidelines for the Implementation of Article 5.3 of the World Health Organization Framework Convention on Tobacco Control (WHO-FCTC).

2. These Guidelines aim to:

- a. raise the awareness of the public particularly the pupils and students by advocating the adverse effects of cigarettes smoking on health, productivity, the cost of health service, and the economy;
- b. avoid all forms and manner of cooperation or partnership with the tobacco industry; and
- c. ensure tobacco control and protection against commercial and other vested interests of the tobacco industry.

3. Any violation of these Guidelines shall be considered a ground for administrative disciplinary action pursuant to Rule XIV (Discipline) of the Omnibus Rules Implementing Book V of Executive Order No. 292, without prejudice to the filing of criminal as well as civil actions under existing laws, rules, and regulations.

4. Immediate dissemination of and strict compliance with this Order is directed.


BR. ARMIN A. LUISTRO FSC
Secretary

Encl.:

As stated

Reference:

None

To be indicated in the Perpetual Index
under the following subjects:

EMPLOYEES

OFFICIALS

POLICY

RULES & REGULATIONS

SCHOOLS

DepED Order No.6, s.2012

January 18, 2012

GUIDELINES ON THE ADOPTION AND IMPLEMENTATION OF PUBLIC HEALTH POLICIES ON TOBACCO
CONTROL AND PROTECTION AGAINST TOBACCO INDUSTRY INTERFERENCE

ACKNOWLEDGMENT RECEIPT

RECEIVED BY:

LORNA DIG DINO

Director III

Officer-In-Charge

Office of the Regional Director

Schools Division Superintendent
Division of : _____

District Supervisor
District of : _____

RECEIVED AND DISSEMINATED BY:

School Principal

Name of School

District: _____

Division of: _____

DEPARTMENT OF EDUCATION
REGION IV CALABARZON
ICT OFFICE

RECEIVED
1/18/12

BY: Joseph TIME: 3:15pm
LOG # 2129

Information and Communication Technology Office

**GUIDELINES ON THE ADOPTION AND IMPLEMENTATION OF PUBLIC HEALTH
POLICIES ON TOBACCO CONTROL AND PROTECTION AGAINST TOBACCO
INDUSTRY INTERFERENCE**

Coverage

These Guidelines cover all officials and employees of the department, regardless of status of employment.

1. Definition of Terms

- a. Tobacco Industry - shall refer to organization, entities, association, and individuals that work for and in behalf of the tobacco industry, such as but not limited to tobacco manufacturers, wholesale distributors, importers of tobacco products, tobacco retailers, front groups and/or organizations, including but not limited to lawyers, scientists and lobbyists who work to further the interests of the tobacco industry.
- b. Tobacco Industry Interference - refers to a broad array of tactics and strategies used by the tobacco industry to interfere with the setting and implementation of tobacco control measures.

2. Prohibitions

a. Unnecessary Interaction with the Tobacco Industry

Public officials employees shall interact with the tobacco industry only when strictly necessary for the latter's effective regulation, supervision or control. Transparency in all interaction with the tobacco industry should be carried out in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such perception, public officials and employees shall act to prevent or correct this perception.

b. Preferential Treatment to the Tobacco Industry

Public officials and employees shall serve the public interest and are prohibited from providing incentives, privileges, benefits or exemptions to the tobacco industry, except as otherwise provided by law.

c. Accepting Gifts, Donations and Sponsorship

Public officials and employees shall not solicit or accept, directly or indirectly any gifts, gratuity, favor, entertainment loan or anything of monetary value in the course of their official duties or in connection with any operation being regulated by or any transaction which may be affected by the functions of their office from any person or business related to the tobacco industry.

This prohibition covers the donation of funds or anything of monetary value, including, but not limited to, the conduct of refurbishing and restoration programs, construction of classrooms, school stages and other facilities, school feeding programs, provision of school supplies and

other facilities, school feeding programs, provision of school supplies and materials, installation of facilities for multi-media programs, sponsorship of medical and dental check-ups and other activities.

d. Financial Interest in the Tobacco Industry

Public officials and employees shall not directly or indirectly have any financial or material interest in any transactions involving the tobacco industry requiring the approval of their office. In relation to this, public officials and employees shall declare any interest in the tobacco industry in their annual declaration of assets and liabilities.

e. Accepting Other Favors Analogous to those mentioned above, like but not limited to the following:

Public officials and employees, regardless of status, shall avoid conflicts of interest with the tobacco industry at all times. When a conflict of interest arises, he/she shall resign from his position in the tobacco industry within thirty (30) days from his/her assumption of office and/or divest himself/herself of his shareholdings or interest within sixty (60) days from assumption.

f. Engaging in an Occupational Activity within the Tobacco Industry

Public officials and employees that have a role in setting and implementing public health policies with respect to tobacco control, shall inform the Department about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within one (1) year after leaving the service, and to require applicants for such public office positions to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

3. Information Dissemination Program

a. Public officials and employees are required to report any form of activity of the tobacco industry which are dubbed as part of their "corporate social responsibility" such as activities employed by the industry as part of their marketing and public relations strategy that circumvents the prohibitions on tobacco advertising, promotion and sponsorship.

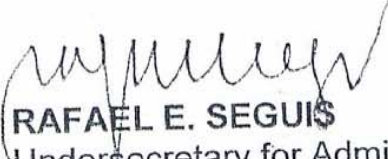
b. Officials and employees shall give information about any type of agreement with the tobacco industry or any information that would facilitate the enforcement of policy against tobacco industry interference. Information shall include reports on any interaction with the tobacco industry, any preferential treatment given to the tobacco industry and any offer of donation to the public official or employee by the tobacco industry. To encourage transparency and accountability, this information shall be accessible to the public.



OFFICE OF THE UNDERSECRETARY FOR ADMINISTRATION

MEMORANDUM

TO : The Home Office
Foreign Service Posts
Regional Consular Offices

FROM : 
RAFAEL E. SEGUIS
Undersecretary for Administration

SUBJECT : **CSC-DOH Joint Memorandum Circular No. 2010-01**

DATE : 24 May 2013

All Offices, Foreign Service Posts and Regional Consular Offices are instructed to comply with the provisions and guidelines set forth in attached CSC-DOH Joint Memorandum Circular (JMC) No. 2010-01 on the Protection of the Bureaucracy Against Tobacco Industry Interference.

The JMC covers all government personnel, regardless of status, in the national or local government including government-owned and controlled corporations, with original charters, state colleges and universities.

The document establishes strict guidelines on matters pertaining to dealings both directly and indirectly with the Tobacco Industry, such as, but not limited to: (a) unnecessary interaction; (b) preferential treatment; (c) accepting gifts, donations, and sponsorships; (d) financial interests; (e) analogous favors extended family members; (f) conflict of interest; and, (g) engagement in occupational activities.

Annex A of the JMC provides for the rules when dealing with the Tobacco Industry is absolutely necessary.

For compliance.

8



Republic of the Philippines
CIVIL SERVICE COMMISSION
Constitution Hills, Batasang Pambansa Complex,
Diliman, 1126 Quezon City

DEPARTMENT OF HEALTH
San Lazaro Compound, Rizal Avenue,
Sta. Cruz, 1003 Manila



JOINT MEMORANDUM CIRCULAR NO. 2010-01

TO : ALL HEADS OF DEPARTMENTS, BUREAUS AND AGENCIES
OF THE NATIONAL GOVERNMENT, LOCAL GOVERNMENT
UNITS, GOVERNMENT-OWNED AND/OR CONTROLLED
CORPORATIONS WITH ORIGINAL CHARTERS AND STATE
UNIVERSITIES AND COLLEGES

SUBJECT: PROTECTION OF THE BUREAUCRACY AGAINST
TOBACCO INDUSTRY INTERFERENCE

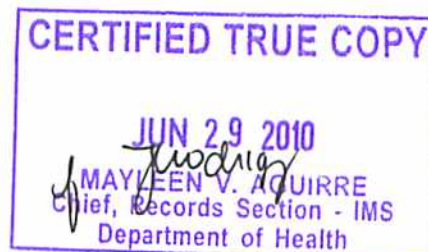
Pursuant to Article IX-B, Section 3 of the Constitution, the Civil Service Commission, as the central personnel agency of the government, is responsible for the promotion of morale, efficiency, integrity, responsiveness, and courtesy in the civil service and the institutionalization of management climate conducive to public accountability.

Pursuant to Section 2, Title IX, Chapter 1 of the Administrative Code, the Department of Health is primarily responsible for the formulation, planning, implementation, and coordination of policies and programs in the field of health, whereas Section 3 (4) thereof gives the DOH the power to administer all laws, rules and regulations in the field of health.

Pursuant to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), which was ratified by the President on September 23, 2003 and concurred in by the Senate on April 25, 2005, specifically under the title *General Obligations*, Article 5.3; the Parties, in setting and implementing their public health policies with respect to tobacco control, shall act to protect these policies from commercial and vested interests of the tobacco industry.

Pursuant to the Article 5.3 Guidelines, which was adopted by the Conference of the Parties in November 2008 to assist Parties in implementing Article 5.3, government personnel must avoid interaction with the tobacco industry and if any dealing is necessary for the latter's regulation, supervision and control, it must be transparent and accountable.

Further, in relation to the WHO FCTC and Article 5.3 Guidelines, the Civil Service Commission, pursuant to Section 12 of RA 6713, shall have the primary responsibility for the administration and enforcement of the 'Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees'.



The WHO FCTC encourages Parties to implement additional measures in consonance with those required by the treaty and its guidelines.

NOW, THEREFORE, the Civil Service Commission and the Department of Health hereby promulgate this policy on *Protection of the Bureaucracy against Tobacco Industry Interference*.

1.0 Coverage

This policy covers all government officials and employees, regardless of status, in the national or local government including government-owned and controlled corporations, with original charters, state colleges and universities.

2.0 Definition of Terms

2.1 Tobacco Industry shall refer to organizations, entities, associations, and individuals that work for or in behalf of the tobacco industry, such as, but not limited to, tobacco manufacturers, wholesale distributors, importers of tobacco products, tobacco retailers, front groups and any other individuals or organizations, including, but not limited to lawyers, scientists and lobbyists that work to further the interests of the tobacco industry.ⁱ

2.2 Tobacco Industry Interference refers to a broad array of tactics and strategies used by the tobacco industry to interfere with the setting and implementing of tobacco control measures.

3.0 Prohibitions

3.1 Unnecessary Interaction with the Tobacco Industry

Public officials and employees shall interact with the tobacco industry only when strictly necessary for the latter's effective regulation, supervision or control. Transparency in all interactions with the tobacco industry shall be observed. Any necessary interaction with the tobacco industry should be carried out in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, public officials and employees shall act to prevent or correct this perception.ⁱⁱ

3.2 Preferential Treatment to the Tobacco Industry

Public officials and employees shall serve the public interest and are prohibited from providing incentives, privileges, benefits or exemptions to the tobacco industry, except as otherwise provided by law.

3.3 Accepting Gifts, Donations and Sponsorship

Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity favor, entertainment, loan or anything of

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JUN 29 2010
Mayleen V. Aguirre
MAYLEEN V. AGUIRRE
Chief, Records Section - IMS
Department of Health

monetary value in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office from any person or business related to the tobacco industry.

3.4 Financial Interest in the Tobacco Industry

Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction involving the tobacco industry requiring the approval of their office. In relation to this, public officials and employees shall declare any interest in the tobacco industry in their annual declaration of assets and liabilities.

3.5 Accepting Other Favors Analogous to those mentioned above, like, but not limited to the following:

Public officials and employees shall not accept or have any member of his/her family accept employment or recommend any one to any position in any private enterprise connected with the tobacco industry which has a regular or pending official transaction with their agency.

3.6 Conflict of Interest with the Tobacco Industry

Public officials or employees, regardless of status, shall avoid conflicts of interest with the tobacco industry at all times. When a conflict of interest arises, he/she shall resign from his position in the tobacco industry within thirty (30) days from his/her assumption of office and/or divest himself/herself of his/her shareholdings or interest within sixty (60) days from assumption.

3.7 Engaging in an Occupational Activity within the Tobacco Industry

Public officials and employees of agencies that have a role in setting and implementing public health policies with respect to tobacco control, shall inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving the service; and to require applicants for such public office positions to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

4.0 Responsibilities of the Head of Agency

The head of agency shall be responsible for the following:

- 4.1 Informing officials and employees of this policy against tobacco industry interference, and;
- 4.2 Amending their respective Codes of Conduct by incorporating the rules provided for in Annex A of this Joint Memorandum Circular.

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JUN 29 2010
[Signature]
MAYLEEN V. AGUIRRE
Chief, Records Section - IMS
Department of Health

5.0 Information Dissemination Program

- 5.1 Agencies are enjoined to disseminate information about the addictive and harmful nature of tobacco products, tobacco industry interference with tobacco control policies, and the true purpose and scope of activities described as "socially responsible".
- 5.2 They shall give information about any type of agreement with the tobacco industry or any information that would facilitate the enforcement of policy against tobacco industry interference. Information shall include reports on any interaction with the tobacco industry, any preferential treatment given to the tobacco industry and any offer of donation to the public official or employee by the tobacco industry. To encourage transparency and accountability, the agency shall make sure that copies of these documents will be accessible to the public.

6.0 Implementation of the Program

- 6.1 **Submission of Annual Reports.** Agencies shall include in its Annual Report their compliance with this Joint Memorandum Circular.
- 6.2 **Funding & Technical Assistance.** The Department of Health shall provide a start-up fund and technical assistance to assist the Civil Service Commission in its capacity-building and advocacy programs for the different agencies of the government. Each agency is enjoined to allocate resources for its own monitoring and advocacy campaign to ensure sustainability of the programs.
- 6.3 **Participation of Civil Society**
Each agency shall encourage the participation of civil society not affiliated with the tobacco industry in achieving the objective of this Joint Memorandum Circular.

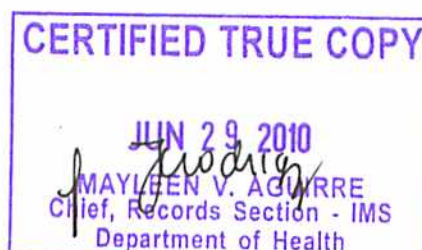
Any violation of this Circular shall be considered a ground for administrative disciplinary action pursuant to Rule XIV (Discipline) of the Omnibus Rules Implementing Book V of Executive Order No. 292, without prejudice to the filing of criminal as well as civil actions under existing laws, rules and regulations.

This Circular shall amend all issuances inconsistent herewith.

This Circular shall take effect fifteen (15) days after publication in a newspaper of general circulation.


FRANCISCO T. DUQUE III, MD, MSc.
Chairman
Civil Service Commission


ESPERANZA I. CABRAL, MD
Secretary
Department of Health



ANNEX A

**Rules which shall be included in the Amendment
of the Code of Conduct of Each Agency**

- (i) Public officials and employees shall limit interactions with the tobacco industry to those strictly necessary for its regulation and to ensure the transparency of those that occur.
- (ii) In the event that a meeting is strictly necessary, officials and employees shall abide by the following rules:
 - 1. Set the meeting agenda.ⁱⁱⁱ
 - 2. Ask the industry about what they want to discuss— in writing – then decide whether to agree with the meeting or not. Stick to the agenda and make the meeting brief.^{iv}
 - 3. Clarify the goal and structure of the meeting.^v
 - 4. Before the meeting, it must be made clear that such interaction does not imply partnership, dialogue or collaboration and indicate in writing to the tobacco industry that they may not mischaracterize the nature of the meeting.^{vi}
 - 5. Hold the meeting at the premises of the department/institution/agency/local government.^{vii} Ensure that any photograph taken of this meeting is strictly for documentation purposes only and not for the public relations activities of the tobacco industry.
 - 6. Predetermine the meeting participants by asking for the names and positions of those who will attend the meeting.^{viii}
 - 7. Moderate the meeting. A lawyer must be present and must closely advise the official/employee/representative during the meeting.^{ix}
 - 8. Write the official minutes.^x A voice recording of the meeting may be made to assist the staff in preparing the transcript of the meeting. Transcript of the meeting must be filed for record purposes and be made available to the public upon request.
 - 9. Maintain the right to terminate the meeting at any point.^{xi}
 - 10. Distribute information on the meetings as appropriate. Publicly correct any misinformation regarding the meeting.^{xii}
 - 11. Decide on follow up questions that must be answered after the meeting.
 - 12. All non-mediated exchanges (in person, phone or email) between officials, employees and representatives of the agency should be avoided.

- (iii) Public officials and employees shall declare any interest in the tobacco industry. They shall resign from his/her position in the tobacco industry within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption.^{xiii}

For the purpose of this rule, interest in the tobacco industry means personal, financial or other interest, including, but not limited to:^{xiv xv}

1. having an existing ownership or investment in the tobacco industry;
2. being a member of the Board of Directors, an officer of the corporation or a partner in a partnership in the tobacco industry;
3. receiving any contribution from the tobacco industry.^{xvi}

- (iv) Public officials and employees shall not demand or receive any contribution from the tobacco industry for themselves, their families, relatives, friends, or any other persons or organizations. Contributions shall include, but are not limited to, payments, gifts and services, monetary or in-kind, research funding, financial aid, policy drafts and legal advice.
- (v) Public officials and employees shall avoid the creation of any perception of real or potential partnership or cooperation with the tobacco industry, and shall publicly correct any perception of partnership that may have been created.
- (vi) Public officials and employees of agencies which have a role in setting and implementing public health policies with respect to tobacco control, shall inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving service; and to require applicants for such public office positions to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

¹ The Guidelines for the Implementation of Article 5.3¹ were adopted by the Conference of Parties last November 2008. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.

Paragraph 11. Guidelines for the implementation of Article 5.3 of the WHO FCTC

The broad array of strategies and tactics used by the tobacco industry to interfere with the setting and implementing of tobacco control measures, such as those that Parties to the Convention are required to implement, is documented by a vast body of evidence. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.

¹¹ Paragraph 20 Guidelines for Implementation of Article 5.3 of the WHO FCTC

In setting and implementing public health policies with respect to tobacco control, any necessary interaction with the tobacco industry should be carried out by Parties in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, Parties should act to prevent or correct this perception.

¹² Judith Mac Kay and Mary Assunta, Ethical Guidelines for Meeting with the Tobacco Industry.

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

²² Rep. Act. 6713, Sec. 9

"Divestment. - A public official or employee shall avoid conflicts of interest at all times. When a conflict of interest arises, he shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption."

²³ Rep. Act 6713, Sec. 7 (b)

(b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not:

(1) Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;

²⁴ Rep. Act 6713, Sec. 3 (i):

"(i) "Conflict of interest" arises when a public official or employee is a member of a board, an officer, or a substantial stockholder of a private corporation or owner or has a substantial interest in a business, and the interest of such corporation or business, or his rights or duties therein, may be opposed to or affected by the faithful performance of official duty."

²⁵ Recommendation 4.10, Guidelines implementing Article 5.3 of the FCTC

Parties should not allow any official or employee of government or of any semi/quasi governmental body to accept payments, gifts or services, monetary or in-kind, from the tobacco industry.



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

July 14, 2014

REVENUE MEMORANDUM ORDER NO. 28-2014

SUBJECT: Amendment to the Revised Code of Conduct for Revenue Officials and Employees as implemented by Revenue Memorandum Order (RMO) No. 53-2010 by prescribing the policies and guidelines on the protection of the Bureau of Internal Revenue (BIR) against tobacco industry interference pursuant to the Joint Memorandum Circular No. 2010-01 of the Civil Service Commission and Department of Health

TO : ALL REVENUE OFFICIALS AND EMPLOYEES AND OTHERS CONCERNED

This Order is an addendum to RMO No. 53-2010 dated June 11, 2010 by prescribing the policies and guidelines on the protection of the Bureau of Internal Revenue (BIR) against tobacco industry interference, defining therein certain offenses as additional grounds for administrative disciplinary action with their corresponding penalties, which shall form part of **Section 18 as letter L thereof, Prohibition Against Conflict of Interest and Partiality, Chapter III-Responsibility to the Public, Revised Code of Conduct for Revenue Officials and Employees**, as follows:

Section 18 – Prohibition Against Conflict of Interest and Partiality.

L. The following shall be the policies and guidelines on the protection of the BIR against tobacco industry interference.

(a) Revenue officials and employees shall limit interactions with the tobacco industry to those strictly necessary for its regulation and to ensure the transparency of those that occur.

(b) In the event that a meeting is strictly necessary, revenue officials and employees shall abide by the following rules:

- 1. Set the meeting agenda.**
- 2. Ask the industry about what they want to discuss in writing then decide whether to agree with the meeting or not. Stick to the agenda and make the meeting brief.**
- 3. Clarify the goal and structure of the meeting.**

4. Before the meeting, it must be made clear that such interaction does not imply partnership, dialogue or collaboration and indicate in writing to the tobacco industry that they may not mischaracterize the nature of the meeting.
5. Hold the meeting at the premises of the department/institution/agency/local government. Ensure that any photograph taken of this meeting is strictly for documentation purposes only and not for the public relations activities of the tobacco industry.
6. Predetermine the meeting participants by asking for the names and positions of those who will attend the meeting.
7. Moderate the meeting. A lawyer must be present and must closely advise the revenue official/employee/representative during the meeting.
8. Write the official minutes. A voice recording of the meeting may be made to assist the staff in preparing the transcript of the meeting. Transcript of the meeting must be filed for record purposes and be made available to the public upon request.
9. Maintain the right to terminate the meeting at any point.
10. Distribute information on the meetings as appropriate. Publicly correct any misinformation regarding the meeting.
11. Decide on follow up questions that must be answered after the meeting.
12. All non-mediated exchanges (in person, phone or email) between officials, employees and representatives of the agency should be avoided.

(c) Revenue officials and employees shall declare any interest in the tobacco industry. They shall resign from his/her position in the tobacco industry within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (6) days from such assumption.

For the purpose of this rule, interest in the tobacco industry means personal, financial or other interest, including, but not limited to:

1. Having an existing ownership or investment in the tobacco industry;

2. Being a member of the Board of Directors, an officer of the corporation or a partner in a partnership in the tobacco industry;
3. Receiving any contribution from the tobacco industry.

(d) Revenue officials and employees shall not demand or receive any contribution from the tobacco industry for themselves, their families, relatives, friends, or any other persons or organizations. Contributions shall include, but are not limited to, payments, gifts and services, monetary or in-kind, research funding, financial aid, policy drafts and legal advice.

(e) Revenue officials and employees shall avoid the creation of any perception of real or potential partnership or cooperation with the tobacco industry, and shall publicly correct any perception of partnership that may have been created.

(f) Revenue officials and employees which have a role in setting and implementing public health policies with respect to tobacco control, shall inform their respective Chiefs of Office about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving service; and to require applicants for such public office positions to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

Non-compliance therewith shall be considered as Conduct Prejudicial to the Best Interest of the Service and shall constitute a Grave Offense, without prejudice to the filing of criminal as well as civil actions under existing laws, rules and regulations.

This Order shall take effect immediately.

(Original Signed)

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

